

AMENDED IN ASSEMBLY APRIL 14, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 987**

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**Introduced by Assembly Member Ma**

February 27, 2009

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An act to amend ~~Section 8800 of~~ *Section 40518 of*, and to add and repeal *Section 22368 of*, the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 987, as amended, Ma. Vehicles: ~~registration~~. *automated speed enforcement.*

*Existing law does not expressly authorize the use of photo radar from an automated enforcement system for speed enforcement purposes by any jurisdiction.*

*This bill would authorize a city or county, until January 1, 2015, to establish a program utilizing an automated speed enforcement system for speed enforcement if specified conditions are met. This bill would require a city or county that adopts an automated speed enforcement program to submit a specified report to the Legislature on or before January 1, 2015.*

~~Existing law authorizes the Department of Motor Vehicles to suspend, cancel, or revoke the registration of a vehicle or a certificate of ownership, registration card, license plate, or permit under specified circumstances, including, among other things, when the department determines that a registered vehicle is mechanically unfit or unsafe to be operated or moved upon the highways.~~

~~This bill would make technical, nonsubstantive changes to these provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     *SECTION 1. The Legislature finds and declares all of the*  
2     *following:*  
3     *(a) Traffic speed enforcement is critical to law enforcement*  
4     *agencies' efforts to reduce factors that contribute to traffic*  
5     *collisions.*  
6     *(b) Law enforcement and local agencies employ a variety of*  
7     *methods to lessen speeding, including engineering, education, and*  
8     *enforcement.*  
9     *(c) Additional tools, including automated enforcement, are*  
10    *available to assist law enforcement in addressing excessive*  
11    *speeding and speed-related crashes.*  
12    *(d) Automated speed enforcement offers a high rate of detection,*  
13    *and, in conjunction with education, engineering, and law*  
14    *enforcement measures, it can significantly improve traffic safety.*  
15    *(e) Several such programs implemented in other cities and states*  
16    *have proven successful in reducing speeding and addressing traffic*  
17    *safety concerns. These programs have also given policymakers*  
18    *the opportunity to assess which programs have operated*  
19    *appropriately and successfully.*  
20    *(f) The automated speed enforcement programs that this act*  
21    *authorizes should be limited to locations that have been identified*  
22    *with a history of excessive speeds or speed-related crashes or to*  
23    *high traffic volume intersections with existing traffic signal*  
24    *automated enforcement systems.*  
25    *SEC. 2. Section 22368 is added to the Vehicle Code, to read:*  
26    22368. *(a) As used in this section, "automated speed*  
27    *enforcement system" or "ASE system" means a fixed mid-block*  
28    *system, a traffic signal automated enforcement system located at*  
29    *enforced intersections, or a mobile radar system operated by a*  
30    *law enforcement agency that utilizes automated equipment to detect*  
31    *a violation of speeding laws and is designed to obtain a clear*  
32    *photograph of a vehicle's license plate and the driver of the vehicle.*  
33    *(b) A city or county may establish a program utilizing an ASE*  
34    *system for speed enforcement, which shall do all of the following:*

1     (1) Identify clearly the presence of the fixed or mobile automated  
2 speed enforcement system by signs that are visible to traffic  
3 entering the roadway on which the ASE system is utilized.

4     (2) For mobile systems, identify, with distinctive markings, the  
5 vehicle containing the mobile automated speed enforcement  
6 equipment.

7     (3) Provide notice to drivers that a photographic record may  
8 be taken when the driver passes the vehicle containing the mobile  
9 automated speed enforcement system.

10    (4) (A) For mobile systems, utilize a trained peace officer  
11 present at the time of an alleged violation.

12    (B) The peace officer shall be properly trained in all of the  
13 following:

14    (i) The use of automated speed enforcement equipment.

15    (ii) The use of photographic, radar, laser, and other electronic  
16 devices.

17    (iii) The enforcement of traffic and speeding laws.

18    (C) For the purposes of subparagraph (B), a peace officer is  
19 considered properly trained if he or she has successfully completed  
20 both of the following:

21    (i) Either a radar operator course approved and certified by  
22 the Commission on Peace Officer Standards and Training of no  
23 less than 24 hours on the use of a police traffic radar, laser, or  
24 other electronic device, or an operator course meeting equivalent  
25 standards.

26    (ii) A minimum number of hours of speed enforcement training  
27 conducted by the local law enforcement agency, including, but not  
28 limited to, the operation of the actual mobile automated speed  
29 enforcement technology that is used by the local agency, the  
30 criteria that is used to determine safe and unsafe road and driving  
31 conditions, and the appropriate speed setting for the technology  
32 in accordance with the varying conditions referenced in Section  
33 22350.

34    (c) Prior to enforcing speed and traffic laws utilizing an ASE  
35 system, a jurisdiction shall do both of the following:

36    (1) Make a public announcement about the system, which  
37 includes public information regarding the hazards of excessive  
38 speed, at least 30 days following the installation of the signs placed  
39 pursuant to paragraph (1) of subdivision (b).

1     (2) Issue warning notices only for the first 30 days of  
2 enforcement under the program.

3     (d) A city or county with the oversight of a local law enforcement  
4 agency may operate an automated speed enforcement system  
5 pursuant to this section. As used in this subdivision, “operate”  
6 includes all of the following activities:

7         (1) Develop uniform guidelines for all of the following:

8             (A) The selection of locations where the system will be utilized.  
9 The guidelines for the selection shall include, but are not limited  
10 to, consideration of demonstrated community involvement and  
11 support, demonstrated need for traffic safety enforcement based  
12 on the incidence of traffic collisions or evidence of excessive  
13 speeding, and high traffic intersection locations with an existing  
14 traffic signal automated enforcement system.

15             (B) The screening and issuing of citations.

16             (C) The processing and storage of confidential information.

17             (D) The establishment of procedures to ensure compliance with  
18 the guidelines.

19     (2) Perform administrative and day-to-day functions, including,  
20 but not limited to, all of the following:

21         (A) Certify that the equipment is properly installed and  
22 calibrated and is operating properly so that, at a minimum, the  
23 radar or other electronic device (piezoelectric strips) used to  
24 measure the speed of the accused meets or exceeds the minimum  
25 operational standards and has been calibrated within three years  
26 prior to the date of the alleged violation by an independent certified  
27 repair and testing or calibration facility.

28         (B) Ensure that the equipment is regularly inspected.

29         (C) Regularly inspect and maintain warning signs placed  
30 pursuant to paragraph (1) of subdivision (b).

31         (D) Maintain controls necessary to ensure that only those  
32 citations that have been reviewed and approved by law enforcement  
33 are delivered to violators.

34     (e) The peace officer who is present when the mobile automated  
35 speed enforcement is in operation shall record information  
36 concerning road and driving conditions at the time each photo is  
37 taken.

38     (f) Citations issued pursuant to this section shall include a clear  
39 photo of the driver and license plate of the vehicle and a  
40 description of the alleged violation, including the time when the

1 *alleged violation occurred. A separate document that contains*  
2 *both a brief, basic explanation of California speed laws, including*  
3 *references, and an explanation that the driver has a right to appeal*  
4 *the citation shall accompany the citation.*

5 *(g) (1) Notwithstanding Section 6253 of the Government Code,*  
6 *or any other law, photographic records made by an ASE system*  
7 *shall be confidential, and shall be made available only to*  
8 *governmental agencies and law enforcement agencies and only*  
9 *for the purposes of enforcing this article.*

10 *(2) Confidential information obtained from the Department of*  
11 *Motor Vehicles for the administration or enforcement of this article*  
12 *shall be held confidential and shall not be used for any other*  
13 *purpose.*

14 *(3) Except for court records described in Section 68152 of the*  
15 *Government Code, the confidential records and information*  
16 *described in paragraphs (1) and (2) may be retained for up to six*  
17 *months from the date the information was first obtained, or until*  
18 *final disposition of the citation, whichever date is later. As soon*  
19 *as feasible, after that time, the information shall be destroyed in*  
20 *a manner that will preserve the confidentiality of a person included*  
21 *in the record or information.*

22 *(h) The registered owner or an individual identified by the*  
23 *registered owner as the driver of the vehicle at the time of the*  
24 *alleged violation shall be permitted to review the photographic*  
25 *evidence establishing the alleged violation.*

26 *(i) A contract between a local authority and a manufacturer or*  
27 *supplier of photo radar enforcement equipment shall allow the*  
28 *local authority to purchase materials, lease equipment, and*  
29 *contract for processing services from a manufacturer or supplier*  
30 *based on the services rendered or on a transactional or per*  
31 *transaction basis; but only the local authority shall control*  
32 *enforcement activities and only designated peace officers of the*  
33 *local authority may authorize citations for issuance.*

34 *(j) A city or county that elects to establish a program pursuant*  
35 *to this section shall submit to the Legislature a report regarding*  
36 *the efficacy of the program. This report shall be prepared by an*  
37 *independent qualified contractor who shall provide an evaluation*  
38 *of the automated speed enforcement program. The report should*  
39 *provide data relative to the efficacy of the program in reducing*  
40 *speeding and improving traffic safety at enforcement locations.*

1     (k) *This section shall remain in effect only until January 1, 2015,*  
2     *as of that date is repealed, unless a later enacted statute, that is*  
3     *enacted before January 1, 2015, deletes or extends that date.*

4     SEC. 3. *Section 40518 of the Vehicle Code is amended to read:*

5     40518. (a) Whenever a written notice to appear has been issued  
6     by a peace officer or by a qualified employee of a law enforcement  
7     agency on a form approved by the Judicial Council for an alleged  
8     violation of Section 22451, or, based on an alleged violation of  
9     Section 21453, 21455, or 22101 recorded by an automated  
10    enforcement system pursuant to Section 21455.5 or 22451, *or,*  
11    *based on an alleged violation of Section 22350 recorded by an*  
12    *automated speed enforcement system pursuant to Section 22368,*  
13    and delivered by mail within 15 days of the alleged violation to  
14    the current address of the registered owner of the vehicle on file  
15    with the department, with a certificate of mailing obtained as  
16    evidence of service, an exact and legible duplicate copy of the  
17    notice when filed with the magistrate shall constitute a complaint  
18    to which the defendant may enter a plea. Preparation and delivery  
19    of a notice to appear pursuant to this section is not an arrest.

20    (b) A notice to appear shall contain the name and address of the  
21    person, the license plate number of the person's vehicle, the  
22    violation charged, including a description of the offense, and the  
23    time and place when, and where, the person may appear in court  
24    or before a person authorized to receive a deposit of bail. The time  
25    specified shall be at least 10 days after the notice to appear is  
26    delivered.

27    ~~SECTION 1. Section 8800 of the Vehicle Code is amended to~~  
28    ~~read:~~

29    ~~8800. (a) The department may suspend, cancel, or revoke the~~  
30    ~~registration of a vehicle or a certificate of ownership, registration~~  
31    ~~card, license plate, or permit under any of the following~~  
32    ~~circumstances:~~

33    ~~(1) When the department is satisfied that the registration or the~~  
34    ~~certificate, card, plate, or permit was fraudulently obtained or~~  
35    ~~erroneously issued.~~

36    ~~(2) When the department determines that a registered vehicle~~  
37    ~~is mechanically unfit or unsafe to be operated or moved upon the~~  
38    ~~highways.~~

39    ~~(3) When a registered vehicle has been dismantled or wrecked.~~

1     ~~(4) When the department determines that the required fee has~~  
2 ~~not been paid and the same is not paid upon reasonable notice and~~  
3 ~~demand.~~

4     ~~(5) When a registration card, license plate, or permit is~~  
5 ~~knowingly displayed upon a vehicle other than the one for which~~  
6 ~~it was issued.~~

7     ~~(6) When the registration could have been refused when last~~  
8 ~~issued or renewed.~~

9     ~~(7) When the department determines that the owner or legal~~  
10 ~~owner has committed an offense under Sections 20 (with respect~~  
11 ~~to an application for the registration of a vehicle), 4000, 4159 to~~  
12 ~~4163, inclusive, 4454, 4456, 4461, 4463, 5202, 10750, and 10751,~~  
13 ~~involving the registration or the certificate, card, plate, or permit~~  
14 ~~to be suspended, canceled, or revoked.~~

15     ~~(8) When the department is authorized pursuant to any other~~  
16 ~~provision of law.~~

17     ~~(b) The department may suspend the registration of all vehicles~~  
18 ~~registered in the name of a person, under any of the following~~  
19 ~~circumstances:~~

20     ~~(1) When the United States Secretary of the Department of~~  
21 ~~Transportation or his or her designee issues a lawful out-of-service~~  
22 ~~order pursuant to Title 49 of the Code of Federal Regulations.~~

23     ~~(2) When the department suspends or revokes a motor carrier~~  
24 ~~of property permit.~~

25     ~~(3) When the Public Utilities Commission suspends or revokes~~  
26 ~~operating authority or private registration.~~

27     ~~(e) A suspension imposed pursuant to subdivision (b) shall~~  
28 ~~remain in effect and a vehicle for which registration has been~~  
29 ~~suspended shall not be registered in the name of the person until~~  
30 ~~the department verifies that person's federal registration, federal~~  
31 ~~operating authority, California operating authority, California~~  
32 ~~private registration, or motor carrier of property permit is reissued.~~